

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x

JORGE LUIS ESPINAL,

Petitioner,

-against-

WILLIAM BROWN,

Respondent.

x

Appearances:

For the Petitioner:

JORGE LUIS ESPINAL

Pro Se

FPC-Canaan

PO Box 200

Waymart, PA 18472

MEMORANDUM

Case No. 11-CV-0163

For the Respondent:

LORETTA LYNCH, ESQ.

United States Attorney

Eastern District of New York

BY: PATRICIA E. NOTOPOULOS, ESQ.

Assistant United States Attorney

225 Cadman Plaza East

Brooklyn, NY 11201

BLOCK, Senior District Judge:

On December 6, 2011, the Court denied Jorge Luis Espinal's petition to vacate, set aside or correct his sentence pursuant to 22 U.S.C. § 2255. It did not issue a certificate of appealability because Espinal did not make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c).

On February 3, 2012, the Court denied Espinal's motion for reconsideration pursuant to Federal Rules of Civil Procedure 60(b) and 60(d). Although Espinal did not request a certificate of appealability in connection with his motion, the Second Circuit Clerk's Office has asked the Court to consider whether to issue one *sua sponte*.

Having carefully reviewed the disposition of Espinal's motion, the Court concludes

that the motion did not make a substantial showing of the denial of a constitutional right. Accordingly, a certificate of appealability will not issue.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
April 27, 2012